IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4537 OF 2006

Ashok Manohar Bhurkul ..Applicant

Vs.

The Inspector of Police and ors. ..Respondents

Mr. Rishi Bhuta for applicant.
Mr. U.V. Nikam, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 10, 2007.

P.C.:

1. Heard the learned counsel for the applicant and the learned APP. C.R. No.420 of 2006 came to be lodged with the Powai Police Station for offences punishable under Sections 362, 366-A, 368, 354, 376, 323 and 506 read with Section 34 of IPC and the applicant was arrested on 10/10/2006 along with other two accused. He applied for being released on bail and the Bail Application No.2013 of 2006 has been rejected by the learned Additional Sessions Judge, Greater Bombay. The reason given by the learned Additional Sessions Judge in turning down the prayer for bail was that the investigation was in progress,

the applicant and another co-accused failed to prevent co-accused Sachin from committing rape.

2. There is no dispute that the chargesheet has now been filed and the annexures to the chargesheet have been brought on record with this application. The subsequent application filed by the applicant i.e. Bail Application No.2212 of 2006 after the chargesheet was filed has also been rejected by the learned Additional Sessions Judge, Greater Bombay on 14/12/2006 on the ground that there was likelihood of the applicant tampering with the prosecution witnesses and because of the act of the applicant, other co-accused outraged modesty of the victim.

3. I have perused the medical report as well as the other documents annexed to the chargesheet. The applicant is not named as the accused for an offence punishable under Section 376 of IPC. As per the allegations, the applicant was present with other co-accused Vinod and Sachin. Vinod claimed to be a distant relation of the victim and guilty of facilitating the victim being in the company of all

the accused for more than four hours in the night on 7/10/2006. On submission of the chargesheet, in the facts of this case and more particularly the allegations of offences on the part of the applicant, his continuance in custody during the trial is unwarranted.

4. Hence the application is allowed and it is directed that the applicant be released on bail during the trial on his furnishing a PR bond in the sum of Rs.3000/- with two solvent sureties for the like amount. It is further directed that the applicant shall report to the Powai Police Station once in two weeks and he shall remain present before the concerned Sessions Court when the trial commences. He shall not leave Mumbai City without seeking prior permission from the Powai Police Station till the completion of the trial and he shall report to the Powai Police Station within one week from today and submit a copy of his ration card as a proof of his residential address in Mumbai.

(B.H. Marlapalle,J.)